

EXHIBIT B

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4 ORACLE AMERICA, INC.,
5 Plaintiff,
6 vs. Case No. 3:10-cv-03561-WHA
7 GOOGLE, INC.,
8 Defendant.

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13 *HIGHLY CONFIDENTIAL*

14 PURSUANT TO THE PROTECTIVE ORDER
15 VIDEO DEPOSITION OF JAMES R. KEARL, Ph.D.
16 San Francisco, California
17 Wednesday, March 23, 2016
18 Volume I
19

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22 REPORTED BY:

23 REBECCA L. ROMANO, RPR, CSR No. 12546
24

25 Job No. CS2276036

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION
ORACLE AMERICA, INC.,
Plaintiff,
vs. Case No. 3:10-cv-03561-WHA
GOOGLE, INC.,
Defendant.

DEPOSITION OF JAMES R. KEARL, Ph.D.,
taken on behalf of the Defendant, at
633 Battery Street, San Francisco, California,
commencing at 8:38 a.m., Wednesday,
March 23, 2016, before Rebecca L. Romano,
Certified Shorthand Reporter No. 12546

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APPEARANCES (cont'd)

ALSO PRESENT:

Gregory Adams, Ph.D., Charles River Associates

Frank Clare, Videographer

Susan Kim, In-House Counsel Google

Deborah Miller, In-House Counsel Oracle

Stephen Rusek, Edgeworth Economics

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6	BY MS. HURST	156, 206
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10	EXHIBITS	
11	NUMBER	PAGE
12	DESCRIPTION	
13	Exhibit 1580	Expert Report of
14		Professor James R. Kearl,
15		(Corrected 3/21/2016);
16		27
17	Exhibit 1581	Appendix C: Materials
18		Relied Upon Legal Filings;
19		68
20	Exhibit 1582	Article - Platform Choice by
21		Mobile App Developers,
22		5/29/2014;
23		70
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1	EXHIBITS (cont'd)		
2	NUMBER	PAGE	
3	DESCRIPTION		
4	Exhibit 1583	Article - Essays on the	
5		Economics of the Smartphone	
6		and Application Industry,	
7		September 2013;	77
8			
9	Exhibit 1584	Exhibit 1, Comparison of	
10		Mr. Malackowski's and	
11		Dr. Leonard's Estimates of	
12		Android Traffic Acquisition	
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1 San Francisco, California; Wednesday, March 23, 2016

2 8:38 a.m.

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4
5 THE VIDEOGRAPHER: Good morning. We are
6 on the record at 8:38 a.m. on March 23rd, 2016.

7 This is the video-recorded deposition of
8 Dr. James Kearl. My name is Frank Clare here with
9 our court reporter, Rebecca Romano.

10 We are here from Veritext Legal Solutions
11 at request of counsel for defendant.

12 This deposition is being held at
13 Keker & Van Nest in San Francisco.

14 The caption of this case is
15 Oracle America, Incorporated, versus
16 Google, Incorporated, Case No. 3:10-cv-03561-WHA.

17 Please note that audio and video
18 recording will take place unless all parties agree
19 to go off the record. Microphones are sensitive
20 and may pick up whispers, private conversations,
21 and cellular interference.

22 I am not related to any party in this
23 action, nor am I financially interested in the
24 outcome in any way.

25 At this time, will counsel please

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1 one quick follow-up.

2 FURTHER EXAMINATION

3 BY MS. HURST:

4 Q. You've talked about an output produced by
5 complements.

6 Does that sometime involve the
7 possibility that two inputs will create synergies
8 that is more than the sum of their parts?

9 A. Sure.

10 Q. And so, for example, if you have input J
11 and input A, and the resulting product is J plus A,
12 plus synergies, then by combining the two inputs
13 you've created more value --

14 MR. RAGLAND: Objection to form.

15 Q. (By Ms. Hurst) -- is that right?

16 A. Correct.

17 Q. Is it true that the use of non-infringing
18 alternatives allows the infringer to retain the
19 value of the synergies, under those circumstances?

20 MR. RAGLAND: Objection to form.

21 THE DEPONENT: That's a -- an interesting
22 question.

23 The -- the fundamental problem is that if
24 you have synergies, they're attributed to the
25 jointness and, therefore, you can't parcel out the

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1 contribution of any single thing to the synergy, at
2 least not easily. The -- and to the degree that a
3 counterfactual -- claim to do that, then it
4 would -- you know, then -- then it would be
5 claiming too much.

6 It's -- it's a hard question because it's
7 unclear what -- what the -- the counterfactual
8 implies about -- about the synergy.

9 I don't have anything else to say from
10 that.

11 MS. HURST: Let me ask one follow-up.

12 Q. (By Ms. Hurst) Is there anything about
13 Dr. Leonard's use of the Kim model that attempts to
14 account for and allocate synergies as between the
15 input Java and the rest of the -- the Android
16 platform?

17 MR. RAGLAND: Objection to form.

18 THE DEPONENT: No.

19 MS. HURST: No further questions.

20 MR. COOPER: Okay. For clarity, I take
21 it the deposition is over?

22 MS. HURST: From my perspective, you bet.

23 MR. COOPER: Okay.

24 MR. RAGLAND: That is correct.

25 MR. COOPER: Okay. Thank you.

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1 THE VIDEOGRAPHER: This concludes the
2 testimony given by Dr. James Kearl. The three
3 original discs will be retained by Veritext. We're
4 off the record at 3:23 p.m.

5 (TIME NOTED: 3:23 p.m.)
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1 I, Rebecca L. Romano, a Certified Shorthand
2 Reporter of the State of California, do hereby certify:

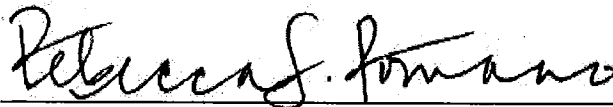
3 That the foregoing proceedings were taken before me
4 at the time and place herein set forth; that any
5 witnesses in the foregoing proceedings, prior to
6 testifying, were administered an oath; that a record of
7 the proceedings was made by me using machine shorthand
8 which was thereafter transcribed under my direction;
9 that the foregoing transcript is true record of the
10 testimony given.

11 Further, that if the foregoing pertains to the
12 original transcript of a deposition in a Federal Case,
13 before completion of the proceedings, review of the
14 transcript [] was [X] was not requested.

15 I further certify I am neither financially
16 interested in the action nor a relative or employee of
17 any attorney or any party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed my
19 name.

20
21 Dated: March 24, 2016

22 
23

Rebecca L. Romano, RPR,
24 CSR. No 12546
25